



primary election, there is no basis for Complainant's allegation of illegal coordination by LCV Entities. Moreover, to the extent that the Complaint suggests that LCV supported the independent expenditures of EMILY's List, that allegation is similarly incorrect. LCV Entities have not made any contributions to EMILY's List or Women Vote! since Katie McGinty announced her candidacy for U.S. Senate in August 2015.

Complainant's allegations fail because there were no communications by LCV Entities that violated 11 C.F.R. § 109.21. In order to determine whether a communication is "coordinated" with a candidate, a candidate's authorized committee, a political party committee or an agent of the foregoing, Commission regulations provide a three-prong test: (1) there must be a communication paid for by a person other than that candidate, authorized committee, or political party committee; (2) one or more of the content standards set forth in 11 C.F.R. § 109.21(c) must be satisfied; and (3) one or more of the conduct standards set forth in 11 C.F.R. § 109.21(d) must be satisfied. See 11 C.F.R. § 109.21(a). All three prongs of the test must be satisfied. 68 Fed. Reg. 426 (Jan. 3, 2003).² In order to satisfy the first two prongs of the definition, there must be a public communication that satisfies the content standard, paid for by a person other than the candidate, authorized committee, or political party committee. Contrary to the Complaint, and the reported statement of former Governor Ed Rendell, none of the LCV Entities made or paid for any public communications, including television commercials, in violation of this provision on coordinated communications in the Pennsylvania primary race for Senate. The alleged illegal coordination of independent expenditures by LCV Entities did not occur.

The Complaint is mere speculation unsupported by any facts sufficient to find reason to believe that LCV Entities violated the FECA or the FEC's regulations.

A complaint must "contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction." 11 C.F.R. § 111.4(d)(3). The Commission's 2007 Statement of Policy further states that "a reason to believe finding followed by an investigation would be appropriate when a complaint credibly alleges that a significant violation may have occurred." Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12545, 12546 (March 16, 2007). Applying this standard, the Commission has previously concluded that a "reason to believe" finding is justified only if a complaint sets forth sufficient specific facts which if proven true would constitute a violation of the FECA, and has stated that unwarranted legal conclusions from asserted facts or mere speculation in a complaint would not be accepted as true. See, e.g., Statement of Reasons of Commissioners Mason, Sandstrom, McDonald, Smith, Thomas, and Wold in MUR 5141 (April 17, 2002).

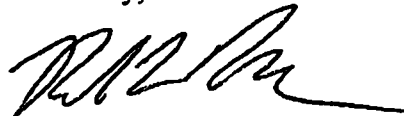
² In light of the fact that the first two prongs of the test are not met, it is not necessary to proceed to an analysis of the conduct standard. It is worth noting with respect to the conduct standard, however, that to the extent that one or more LCV Entities makes coordinated communications and independent expenditures in a federal election, LCV staff working on these programs are required to receive training on, acknowledge and sign a firewall policy that sets out the legal separation and requirements related to these activities in compliance with 11 C.F.R. § 109.21.

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The Republican Party of Pennsylvania's complaint falls far short of this standard, relying on mere speculation in alleging that LCV Entities illegally coordinated with the McGinty campaign without any evidence that LCV Entities satisfied the threshold test of making a payment for an independent expenditure in the primary election. The Complaint relies solely on a statement by Ed Rendell referenced in *Politico Morning Score*, that Rendell "believed EMILY's List would spend at least \$2 million on television," in the Pennsylvania Senate primary race "with the [sic] some of the cash coming from the League of Conservation Voters." Complaint at 3. This statement is nothing more than Rendell's *belief* as to what would be spent in the primary race. The Commission has found that a complaint that provides no specific facts, relying instead purely on speculation, "do[es] not form an adequate basis to find reason to believe that a violation of the FECA has occurred." MUR 4960 (Hillary Rodham Clinton For U.S. Senate Exploratory Committee, Inc.), Statement of Reasons of Commissioners Mason, Sandstrom, Smith and Thomas at 3 ("[P]urely speculative charges, especially when accompanied by a direct refutation, do not form an adequate basis to find reason to believe that a violation of the FECA has occurred.").

For the foregoing reasons, we respectfully request that the Commission dismiss the Complaint and take no further action.

Sincerely,



Richard L. Thomas
General Counsel

cc: Holly Schadler